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## Durban Platform

### – First Steps –

by Annalisa Savaresi\*

The Parties to the UN Framework Convention on Climate Change (UNFCCC) held a meeting dubbed the “first part of the second session of the Durban Platform for Enhanced Action (ADP)” in Bonn, 29 April–3 May 2013. The ADP is the sole body negotiating the future of the climate regime, since the 2012 conclusion of the work of the Ad Hoc Working Group on Long-term Cooperative Action under the Convention (AWG-LCA) and the Ad Hoc Working Group on Further Commitments for Annex I Parties under the Kyoto Protocol (AWG-KP). At that point, the ADP was given the mandate to develop “a protocol, another legal instrument or a legal outcome” applicable to “all Parties”, to be adopted by 2015 and implemented from 2020.<sup>1</sup> The platform has potentially opened the way to a new geometry of commitments, based upon a “clean slate

on differentiation” among Parties.<sup>2</sup> At this point, however, the adoption of a legally binding agreement that includes emission reduction commitments for all Parties remains but one of the possible outcomes opened up by the new negotiation scenario.

Since its first meeting in 2012, the ADP has operated under two separate workstreams: one addressing the elements and modalities of the 2015 agreement, and the other on enhancing the level of ambition for the pre-2020 period. The first workstream, inheriting the unfinished work of the AWG-LCA, has been tasked to address mitigation; adaptation; finance; technology development and transfer; capacity building; and the transparency of action and support. During CoP-18’s debates last December, this workstream was characterised by the resurgence of old divisions, especially on differentiation and the interpretation of the principle of common-but-differentiated responsibilities, which is embedded in

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the UNFCCC. In preparation for ADP-2, Parties' and observers' submissions were invited on other issues, such as the application of the principles of the Convention; experiences and lessons learned from other processes; the scope, structure and design of the new agreement; and ways of defining and reflecting the Parties' undertakings.<sup>3</sup> Under the second workstream, Parties and observers were asked to make submissions on options to enhance climate-change-related ambition before 2020, including application of the principles of the Convention; mitigation and adaptation benefits; barriers and ways to overcome them; incentives for action; finance; technology; and capacity building to support implementation.<sup>4</sup> The Secretariat received a sizeable number of submissions under both workstreams.<sup>5</sup>

As agreed in Doha,<sup>6</sup> the addition of an April session as the first part of ADP-2 was intended to expedite the drafting of a negotiating text to be considered "no later than" CoP-20 (2014), with a view to making a draft text available "before May 2015".<sup>7</sup> Limited progress, however, was made at the April session, with the AWG-LCA ghost looming in the room, as delegates aired familiar views over differentiation, including the resurrection of a Brazilian proposal originally offered in 1997, which would allocate mitigation action based on historical contributions to temperature increases, rather than emission flows.<sup>8</sup> The following review summarises the debate during the first part of ADP-2, as well as issues for discussion awaiting delegates when the session resumes in June.

### **Workstream I: Gestation of a Post-2015 Agreement**

Discussions under Workstream I were held in the course of one workshop (consisting of expert presentations on the scope, structure and design of the 2015 agreement) and a series of roundtables, in which delegates debated measures to enhance adaptation and mitigation, as well as means of implementation and transparency of action and support.

Discussions continued to be weighed down by the re-emergence of the very contentious issues that afflicted the AWG-LCA, with several delegates re-expressing entrenched positions on issues such as the Parties' common-but-differentiated responsibilities, the transfer of technology, finance and capacity building. Some developed-country Parties (such as Australia, Japan and the US) expressed support for the adoption of a "spectrum of mitigation commitments" for all countries, by which they would give countries flexibility to tailor efforts to their national circumstances within an international rules-based system. By contrast, developing countries were increasingly divided between the intransigent position of those expecting to continue along the path traced by the Kyoto Protocol (including the group known as the Like-minded Developing Countries), and those suggesting that all Parties should make mitigation commitments that are proportionate to their capacity (Independent Association of Latin America and the Caribbean).

Parties appeared largely to agree on the fact that the principles of the UNFCCC should apply to the 2015 instrument, but still displayed significant divergence as to how those principles should be interpreted. Parties also

shared the view that adaptation is to be an integral part of the new instrument, closely linked to mitigation, and that enhanced national action needs to be facilitated by transfers of finance, technology and capacity building. Agreement also appeared general on the need to adopt processes for consulting, adjusting, assessing action, and ensuring transparency and accountability; and on the importance of regular review of overall results based on science.

In preparation for the second part of the ADP-2 session (to be held in June), the Co-chairs asked that delegates not further discuss elements identified as common grounds, but rather focus on the format for enhanced action, including various types of commitment (specifically, how bottom-up/top-down approaches can be combined); how to enhance finance, technology transfer and capacity building; how the 2015 agreement can add to and be linked to extant arrangements; and more effective ways of sharing information.

### **Workstream II: Still Struggling to Raise Ambitions**

Under Workstream II, discussions were held in two workshops, featuring expert presentations on low-emission development and land-based mitigation opportunities; as well as a series of roundtables, which featured debates about catalysing action and building a practical, results-oriented approach to increasing pre-2020 ambition.

The workshop format gave Parties an opportunity to showcase success stories, in dialogue with experts. The most debated issues included REDD+ and other land-based mitigation approaches; the phasing out of fossil fuel subsidies and hydrofluorocarbons; renewable energy; and energy efficiency. In this connection, developing countries lamented the lack of progress in the ratification of last December's Kyoto Protocol amendment, which revises out the annexes to the Protocol, setting out its Parties' emission reduction commitments. To date, the amendment has not received its first ratification, although the European Union and its partner countries have declared that they intend to implement their commitments under that amendment as of 1 January 2013.

Parties appeared to be largely aligned concerning the needs to increase the number of countries making mitigation pledges, to raise the level of ambition in extant pledges, and to reap opportunities associated with complementary initiatives. Several delegates underscored the necessity of providing developing countries with access to means of implementation and of making the requisite technology affordable, recognising that insufficient means of implementation; high capital costs; insufficient anchoring of climate change strategies in domestic policies; and the lack of political engagement are the main challenges to implementation. In preparation for the resumed ADP-2 session in June, the Co-chairs invited Parties to discuss renewable energy and energy efficiency; land-use opportunities; climate financing and the promotion of climate-friendly investment; the role of international cooperative initiatives in enhancing national action; and the enhancement of access to means of implementation and political engagement.

## The Resumed ADP-2 Session

ADP-2 reconvened from 3–14 June (to be covered in EPL4-5), alongside meetings of the other UNFCCC subsidiary bodies. As noted above, in an effort to move the debate forward, the ADP Co-chairs had asked that delegates refrain from further discussions of common ground at that time, focusing instead on issues in need of further consideration. Significantly, however, in advance of the meeting, delegates had not yet agreed that they were ready to establish contact groups on such issues, an action that would normally precede the commencement of textual negotiations. The issue of whether to launch contact groups and move closer to full negotiation mode was left open until the second session of ADP-2, when the ADP-2 Co-chairs were expected to present a proposal on the issue.

UNFCCC Executive Secretary, Christiana Figueres, has informed delegates that at present no funding has been made available for the proposed additional session of the ADP, which had been planned for September 2013. This indicates that the second part of ADP-2 may be the only remaining opportunity for the ADP, in its struggles to garner the political momentum necessary to the achievement of its objective.

So far, the ADP, as a negotiation platform, has not significantly departed from the firewall that characterised the Bali Action Plan and ultimately justified its demise.

On the contrary, the resurrection of the above-mentioned Brazilian proposal<sup>9</sup> may be regarded as a sign of the fact that the Parties' entrenched divisions die hard. These divisions were evident also in the delegates' bickering concerning the ratification of the Kyoto Protocol amendment, given that it was not realistic to expect that amendment to be widely ratified within so few months after its adoption. The resumed sessions of ADP-2 in June found Parties still very much at the starting blocks. It remains to be seen whether the process will manage to deliver where the AWG-LCA failed, or will just turn into another false start.

## Notes

- 1 Decision 1/CP.17, at 2 and 4. UN Doc FCCC/CP/2011/9/Add.1, at 2-3.
- 2 Rajamani, L. 2011. "Decoding the Durban Platform". *EJIL: Talk!* 14 December 2011.
- 3 Ad Hoc Working Group on the Durban Platform for Enhanced Action. "Planning of work. Draft conclusions proposed by the Co-Chairs", 7 December 2012. UN Doc FCCC/ADP/2012/L.4, paras 8 and 13.
- 4 *Ibid.*, at para. 15.
- 5 See <http://unfccc.int/bodies/awg/items/7398.php>.
- 6 *Ibid.*
- 7 Decision 2/CP.18. "Advancing the Durban Platform", UN Doc FCCC/CP/2012/8/Add.1, at 9.
- 8 See FCCC/AGBM/1997/MISC.1/Add.3, available at <http://maindb.unfccc.int/library/?screen=detail&FLD0=dC&VAL0=FCCC/AGBM/1997/MISC.1/Add.3>. The Proposal was also the subject of a dedicated work by the SBSTA, see FCCC/SBSTA/2008/6, available at [http://unfccc.int/documentation/documents/advanced\\_search/items/6911.php?preref=600004843](http://unfccc.int/documentation/documents/advanced_search/items/6911.php?preref=600004843).
- 9 *Ibid.*

